IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE.

CUSTOMS APPLICATION NO.21 OF 2003.

The Commissioner of Customs(IMP)... Applicant.
vs.
Bharat Water Works. ... Respondent.

Shri P.S. Jetly with Shri R.V. Desai for the applicant.

CORAM: V.C.DAGA &
J.P.DEVADHAR,JJ.
DATED: 24-3-2005.

P.C.

1. Heard learned Counsel for the applicant. The Tribunal has referred questions for the opinion of this Court reading as under:

> 1."Whether on the facts and in the circumstances of the case the Tribunal was right in law in reducing the redemption fine imposed under sec. 125 of the Customs Act, 1962 from Rs.18,20,000/- to Rs. 9,00,000/- and penalty, imposed u/s 112(a) from Rs. 4,50,000/- to Rs. 2,50,000/- by following its earlier order No.CI/1782-83/WZB/02 dated 19.06.02 without appreciating that the facts in the instant case are wholly distinguishable from the facts of those case.
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> 2." Whether on the facts and in the circumstances of the case the Tribunal was right in law in scaling down the redemption fine and the penalty in respect of a negative list item by following its earlier orders without appreciating the individual merits of the case."
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> 3."Whether on the facts and in the circumstances of the case the Tribunal was right in law in intervening with the redemption fine of Rs.18,20,,000/- imposed under section 125 by the Commissioner of Customs (Import) and reducing it to Rs. 9,00,000/- and with the penalty of Rs. 4,50,000/- imposed under section 112(a) by the Commissioner of Customs (Imports) and reducing

it Rs.2,50,000/- without examining the facts of the case."

2. The above questions have already been answered by this Court in the case of **Collector of Customs, Nhava Sheva vs. Marmo Classic reported in 2003 (156) ELT 14 (Bom.)** in favour of assessee and against the revenue. In this view of the matter, application is dismissed with no order as to costs.

(J.P.DEVADHAR,J.) (V.C.DAGA,J.)

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